

To ensure that the Commission recognized this action by Congress, AAA formally requested that the Commission provide greater protection to the Automobile Emergency Radio Service (AERS) frequencies in its Petition for Reconsideration in PR Docket No. 92-235 (as supplemented on September 5, 1997). In addition, AAA asked that the Commission refrain from licensing non-auto club entities on the AERS channels by letter dated November 24, 1997.

In its Public Notice dated October 15, 1997 (DA 97-2208) (Attachment B), the Commission acknowledged that the Balanced Budget Act, specifically Section 3002 (containing Congress' determination that the emergency road services constitute public safety services), may affect proceedings outside of the auction context. As described below, AAA Carolinas is exactly the kind of non-commercial organization Congress intended to protect. The Commission should therefore follow Congress' intent and protect AAA Carolinas, and the public, from the harm that would result if incompatible users are allowed to operate on the frequency 150.920 MHz.

We note that Skitronics was recently licensed for 150.965 MHz at Carrboro, North Carolina (Call Sign WBM425), and has simultaneously requested yet another automobile emergency radio channel (150.905 MHz) at nearby Rougemont, North Carolina. In all, Skitronics has applied for numerous 150 MHz and 450 MHz band channels throughout this portion of North Carolina. Rule Section 90.35(e) provides that "normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area." Skitronics' applications do not appear to provide any unique justification for abandoning the spectrum efficiency principle embodied in Section 90.35(e). In light of the fact that Skitronics' proposal to acquire multiple channels at the same time will deprive safety related users of available spectrum, the requirements of Section 90.35(e) should be applied in this case.

For the above reasons, we ask that the Commission refrain from assigning Skitronics the frequency 150.905 MHz.

Respectfully submitted,

AAA CAROLINAS, INC.

A handwritten signature in cursive script, appearing to read "Fred Bayha".

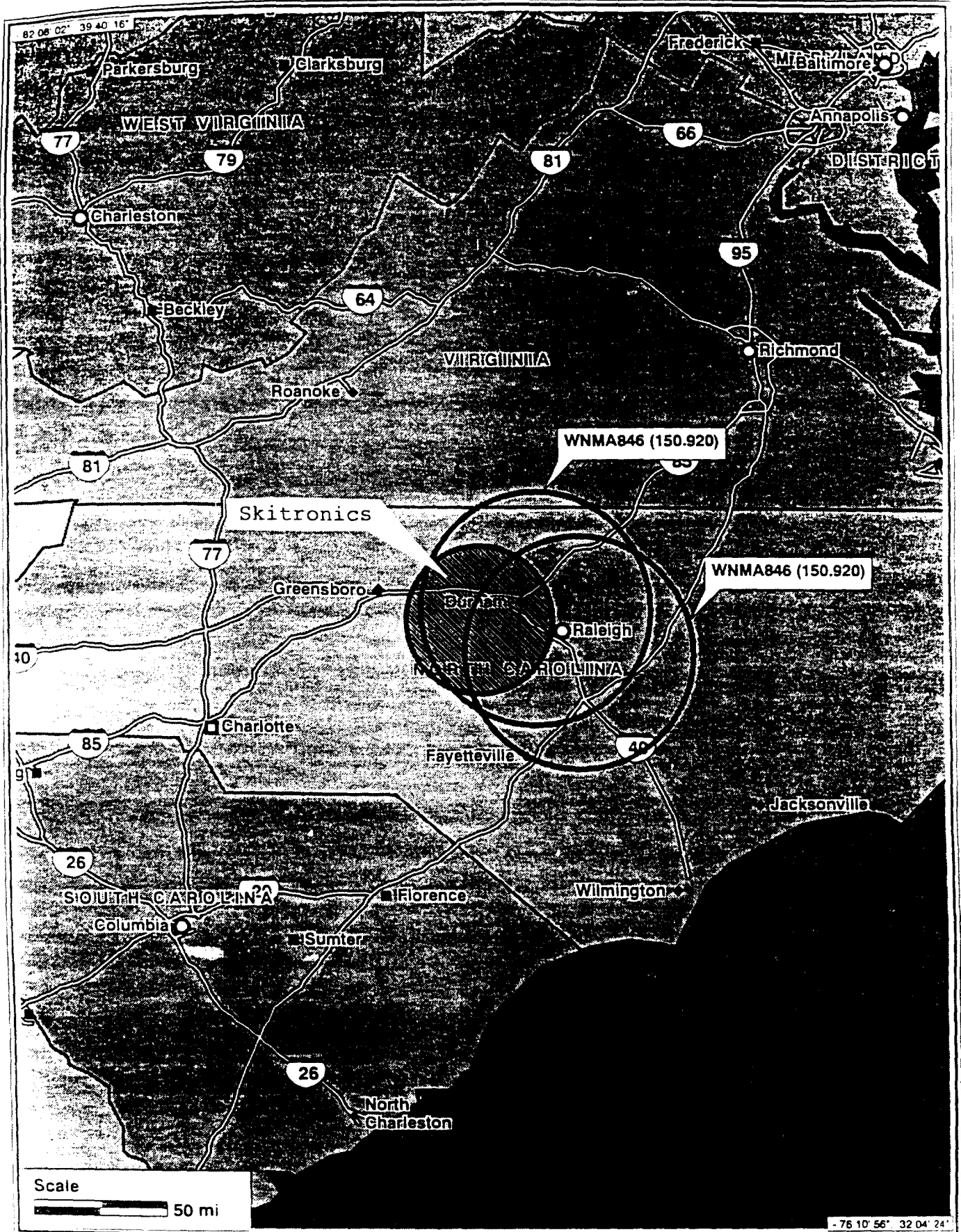
Fred Bayha
Emergency Road Service

Attachment

cc: John W. Komorowski

ATTACHMENT A

CURRENT MAP



ATTACHMENT B



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

DA 97-2208

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Released: October 15, 1997

RULES ADOPTED IN THE REFORMING *SECOND REPORT AND ORDER* (PR DOCKET NO. 92-235) TO GO INTO EFFECT OCTOBER 17, 1997

On February 20, 1997, the Commission adopted the *Second Report and Order (Second R&O)* in PR Docket No. 92-235. By this action, the Commission consolidated the twenty Private Land Mobile Radio Services into two broad pools - Public Safety and Industrial/Business. Additionally, the *Second R&O* introduced competition into frequency coordination services and created opportunities for implementing centralized trunking technology on channels in the shared frequency bands below 800 MHz. The Commission made these rule changes effective six months after their publication in the Federal Register, which occurred on April 17, 1997.¹ Thus, these new rules become effective on October 17, 1997.

While these rules will become effective on October 17, 1997, we note the continued pendency of certain related matters. First, the Commission has received sixteen petitions for reconsideration of the *Second R&O* that challenge certain decisions regarding eligibility criteria for the two pools, the frequency coordination process, and the trunking rules. We take this opportunity to advise the public that licensing actions taken pursuant to these new rules will be subject to any relevant changes adopted by the Commission in its disposition of the pending reconsideration petitions. Second, on August 5, 1997, the Balanced Budget Act of 1997 (1997 Budget Act)² was signed into law. Sections 3002 and 3004 of the statute redefine "public safety" for certain purposes and expand the Commission's competitive bidding authority to apply to assignment of mutually exclusive applications in private wireless services.³ While these provisions do not directly affect the rules scheduled to go into effect on October 17, 1997, they may bear on future consideration of these and related rules.

Notwithstanding the outstanding issues on reconsideration and the implementation of the provisions of the new statute, at this time the public interest would be best served by permitting the new rules to take effect on the scheduled date. These rules are designed to provide for a more efficient distribution of channels, permit licensees to better utilize technologically innovative and efficient equipment, and reduce costs and administrative burdens. Given these significant benefits, further delay is unwarranted.

By the Chief, Wireless Telecommunications Bureau.

Wireless Telecommunications Bureau contact: Ira Keltz at (202) 418-0680 or by E-Mail at mayday@fcc.gov.

--FCC--

¹ The summary of the *Second R&O*, including the new rules, was published in the Federal Register on April 17, 1997. See 62 FR 18834 (April 17, 1997).

² See Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997).

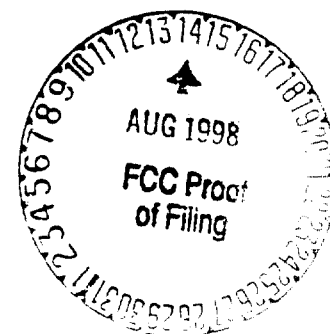
³ See *id.* at §§ 3002, 3004, 111 Stat. at 258, 266.



The Original Core Servi

August 13, 1998

Terry Fishel, Deputy Chief
Licensing and Technical Analysis Branch
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325-7245



RE: Skitronics Inc.
Application for 150.905 MHz/157.470 MHz
File No. D104411
Attention: JLG, SYS

Dear Mr. Fishel:

AAA Carolinas, Inc. (AAA Carolinas) hereby requests that the Commission grant the application of Skitronics, Inc. (Skitronics) (File No. D104411) on a more suitable frequency since the channel coordinated (150.905 MHz) is already occupied by an incompatible user. As discussed below, granting a license to Skitronics on the frequency 150.905 MHz would be adverse to the public interest, considering the intensive use of this frequency by AAA Carolinas for emergency road services, and in light of Congress' explicit recognition of the vital public safety role of such radio operations. At the very least, we ask the Commission to refrain from processing Skitronics' application until the Commission has reached a final determination on how to implement Congress' mandate concerning the "quasi-public safety" status of automobile emergency radio operations.

AAA Carolinas is a not-for-profit organization responsible for providing emergency road services to approximately 800,000 members in North and South Carolina. AAA Carolinas is currently licensed to operate on the channel 150.905 MHz, under Call Sign WNMA846. PCIA has recommended to the FCC that this frequency be assigned to Skitronics, paired with 157.470 MHz, for FB6C Commercial Mobile Radio Service (CMRS) operations at Rougemont, North Carolina. As shown in Attachment A hereto, Skitronics' proposed signal will overlap a substantial portion of AAA Carolinas' coverage on the same frequency. Thus, there is a significant area in which AAA Carolinas will have to compete for airtime with Skitronics' commercial customers, many of whom may use the frequency to carry on interconnected telephone conversations without regard to the efficient use procedures followed by AAA Carolinas.

As discussed below, the recommendation of frequency 150.905 MHz is objectionable on a number of grounds, including: (1) it creates the problem of frequency congestion which raises public safety concerns; (2) the frequency will be unable to support Skitronics' intended operations; (3) it presents the prospect that a regulatory scheme will be implemented which conflicts with congressional intent; and (4) Skitronics' proposal for multiple frequencies in the same area appears to be inconsistent with Rule Section 90.35(e).

The recommendation to grant a license to Skitronics on the 150.905 MHz frequency raises serious safety concerns. AAA Carolinas has been providing emergency road services since 1922. It is evident, based on the number of emergency calls received by AAA Carolinas, that the public has come to rely on these services. Over the course of a year, AAA Carolinas responds to 570,000 emergency road service calls from motorists experiencing a wide variety of problems, many of which endanger the safety of drivers and passengers. Such situations require immediate attention. For example, AAA Carolinas often assists motorists who have been stranded on the road where they are vulnerable to harm from high-speed vehicles, adverse weather conditions, or crime.

State and local public safety agencies have also come to rely on the public safety services performed by AAA Carolinas. Police departments and 911 operators regularly call AAA Carolinas for assistance in handling roadway accidents, or natural disasters, because they know that AAA Carolinas has the equipment, expertise and most importantly, the ability to respond quickly in these situations. For example, when Charlotte, North Carolina experienced severe flooding in the summer of 1997, AAA Carolinas displayed its ability to utilize its radios to serve the public interest by dispatching its fleet of vehicles to rescue motorists and cars caught in flooded areas, and by using its equipment to remove fallen trees and structures from roadways. In the absence of a prompt response by AAA, government

agencies will be compelled to devote their own resources to clearing such hazards.

Indeed, this ability to respond immediately in urgent situations is the key to providing reliable automobile emergency road services. For this reason, it is essential that 150.905 MHz remains useable for its present operations. This frequency is already congested, particularly during the morning and evening rush hours when traffic accidents commonly occur, and AAA Carolinas is called into action. Typically, our tow truck operators use the channel 45 minutes out of the hour during rush hours. If Skitronics is allowed to use the same frequency, it is foreseeable that important automobile emergency calls may not get through in time, which could threaten the safety of the motorists involved, and contribute to substantial traffic delays. Skitronics' proposal to provide interconnected CMRS on the frequency 150.905 MHz is particularly incompatible with existing auto club operations. By definition, the objective of any CMRS provider is to load as many users as possible onto their assigned channels, so that their operations will be profitable. Thus, to protect the public interest, and to be fair to Skitronics which may not be able to successfully promote interconnected services on such a congested frequency, we request that the Commission grant a license to Skitronics on a more suitable frequency.

Granting a license to Skitronics on the 150.905 MHz frequency would also be inconsistent with Congress' mandate to afford AAA and its auto clubs protection as quasi-public safety entities. In the Conference Report accompanying the Balanced Budget Act of 1997, Congress explicitly recognized the important public safety role played by AAA auto clubs, noting that "the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public." H.R. Rep. No. 105-217, at 572 (1997). To ensure that auto clubs can continue to provide emergency road services to the public, Congress expressly exempted from the FCC's auction authority all licenses issued "for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations." Budget Act, Sec. 3002(a)(2)(A). Congress explained in the conference report that "[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association. The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services." H.R. Rep. No. 105-217, at 572 (1997). This language, which demonstrates Congress' intent to promote the types of public safety services offered by AAA Carolinas, supports our recommendation that Skitronics be granted a license on another frequency.

To ensure that the Commission recognized this action by Congress, AAA formally requested that the Commission provide greater protection to the Automobile Emergency Radio Service (AERS) frequencies in its Petition for Reconsideration in PR Docket No. 92-235 (as supplemented on September 5, 1997). In addition, AAA asked that the Commission refrain from licensing non-auto club entities on the AERS channels by letter dated November 24, 1997.

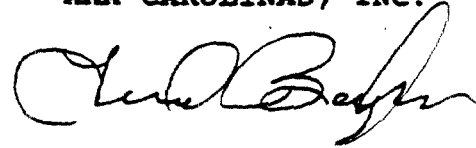
In its Public Notice dated October 15, 1997 (DA 97-2208) (Attachment B), the Commission acknowledged that the Balanced Budget Act, specifically Section 3002 (containing Congress' determination that the emergency road services constitute public safety services), may affect proceedings outside of the auction context. As described below, AAA Carolinas is exactly the kind of non-commercial organization Congress intended to protect. The Commission should therefore follow Congress' intent and protect AAA Carolinas, and the public, from the harm that would result if incompatible users are allowed to operate on the frequency 150.905 MHz.

We note that Skitronics was recently licensed for 150.965 MHz at Carrboro, North Carolina (Call Sign WBMC425), and has simultaneously requested yet another automobile emergency radio channel (150.920 MHz) at this location. In all, Skitronics has applied for numerous 150 MHz and 450 MHz band channels throughout this portion of North Carolina. Rule Section 90.35(e) provides that "normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area." Skitronics' applications do not appear to provide any unique justification for abandoning the spectrum efficiency principle embodied in Section 90.35(e). In light of the fact that Skitronics' proposal to acquire multiple channels at the same time will deprive safety related users of available spectrum, the requirements of Section 90.35(e) should be applied in this case.

For the above reasons, we ask that the Commission refrain from assigning Skitronics the frequency 150.905 MHz.

Respectfully submitted,

AAA CAROLINAS, INC.

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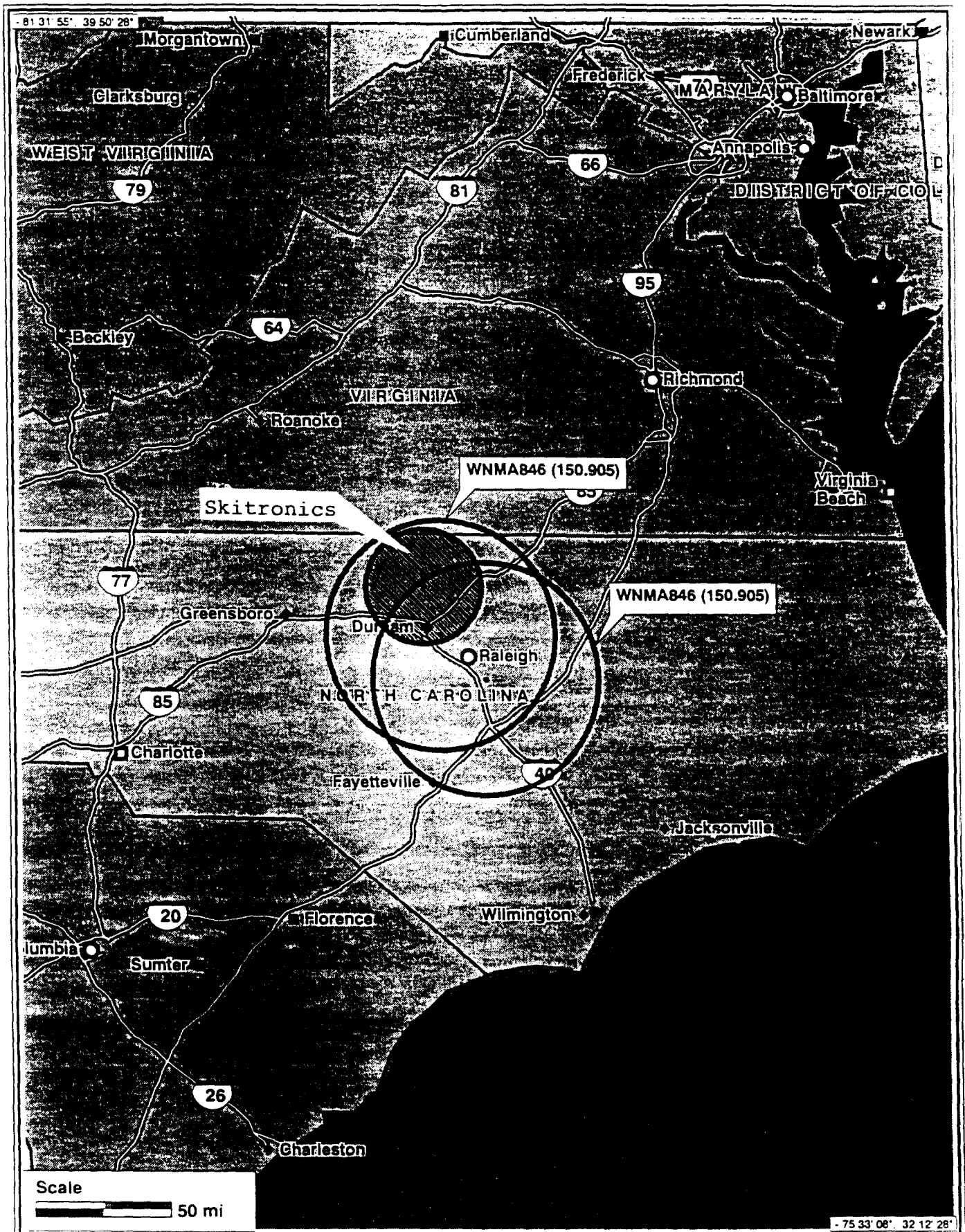
Fred Bayha
Emergency Road Service

Attachment

cc: John W. Komorowski

ATTACHMENT A

CURRENT MAP



ATTACHMENT B



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

DA 97-220

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet <http://www.fcc.gov> <ftp://fcc.gov>

Released: October 15, 1997

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By the Chief, Wireless Telecommunications Bureau.

Wireless Telecommunications Bureau contact: Ira Keltz at (202) 418-0680 or by E-Mail mayday@fcc.gov.

-FCC-

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² See Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997).

³ See *id.* at §§ 3002, 3004, 111 Stat. at 258, 266.

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DIRECTOR OF ENGINEERING
COMMERCIAL RADIO

August 28, 1998

* ADMITTED ONLY IN MAINE
SUPERVISION BY HAROLD MORDKOFKY
A MEMBER OF THE DC BAR

WRITER'S DIRECT DIAL NO

BY HAND DELIVERY

Mary Shultz, Chief
Licensing and Technical Analysis Branch
Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325-7245

**RE: Merced College
Application for 150.965 MHz/159.510 MHz
Call Sign: WPMH610
Attention: LES**

Dear Ms. Shultz:

Enclosed please find an original and four copies of a
Petition for Reconsideration filed on behalf of the California
State Automobile Association in the above-referenced matter.

If you have any questions regarding this matter, please do
not hesitate to contact this office.

Respectfully submitted,

John Prendergast

cc: David Brauch
Marvin W. Smith

California State Automobile Association

SERVING THE MOTORIST SINCE 1900

150 VAN NESS AVENUE
P.O. BOX 429186
SAN FRANCISCO, CALIFORNIA 94142-9186



August 28, 1998

Mary Shultz, Chief
Licensing & Technical Analysis Branch
Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325-7245

**RE: Merced College
Application for 150.965 MHz/159.510 MHz
Call Sign: WPMH610
Attention: LES**

PETITION FOR RECONSIDERATION

Dear Ms. Shultz:

The California State Automobile Association, Inc. (CSAA) hereby requests, pursuant to Section 1.106 of the Commission's rules, reconsideration of the July 29, 1998 decision to assign Merced College the frequency pair 150.965 MHz/159.510 MHz (Call Sign WPMH610), because CSAA already utilizes the frequency 150.965 MHz to respond to frequent and critical emergency road service calls from the public as well as public safety agencies. As demonstrated below, the licensing of this frequency pair is adverse to the public interest, and inconsistent with Congress' recognition of the "quasi-public safety" status of automobile emergency radio operations.

CSAA is a not-for-profit organization responsible for providing emergency road services to approximately 3.8 million members in Northern California, Nevada and Utah. CSAA is

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TREASURER

currently licensed to operate on the channel 150.965 MHz under Call Signs KUY548, WXF950, KMF828, KWT702, KBE894, KWT702, KWT702. On July 29, 1998, based on a recommendation by the Personal Communications Industry Association (PCIA), the Commission assigned 150.965 MHz to Merced College, despite the intensive use of this channel by CSAA for emergency road service operations. As shown in Attachment A hereto, Merced College's signal overlaps a portion of CSAA's service area on the same frequency.

As demonstrated below, the licensing of Merced College on the frequency pair 150.965 MHz/159.510 MHz is not in the public interest because it: (1) creates the problem of frequency congestion which raises public safety concerns; (2) poses the risk that Merced College will fail to adequately monitor the frequency 150.965 MHz for communications in progress, as required by Section 90.403(e) of the Commission's rules, and prevent CSAA from using the channel for its simplex operations, and (3) presents the prospect that a regulatory scheme will be implemented which conflicts with Congressional intent.

I. *Licensing the frequency 150.965 MHz to Vogel
Bus Company raises serious safety concerns*

CSAA has been providing emergency road services for nearly one hundred years. It is evident, based on the number of emergency calls received by CSAA, that the public has come to rely on these services. Over the course of a year, CSAA responds to over 3 million emergency road service calls from motorists experiencing a wide variety of problems, many of which endanger

the safety of drivers and passengers. Such situations require immediate attention. For example, CSAA often assists motorists who have been stranded on the road where they are vulnerable to harm from high-speed vehicles, adverse weather conditions, or crime.

State and local public safety agencies have also come to rely on the public safety services performed by CSAA. To facilitate communications between CSAA and public safety agencies, the telephone numbers of CSAA's dispatch centers have been programmed into the police and highway patrol databases and speed dialing systems. Police departments, 911 operators, and other public service agencies regularly call CSAA for assistance because they know that CSAA has the equipment, expertise and most importantly, the ability to respond quickly in these situations. In the absence of a prompt response by CSAA, these government agencies would be compelled to devote their own resources to clearing such hazards.

Indeed, this ability to respond immediately in urgent situations is the key to providing reliable automobile emergency road services. For this reason, it is essential that 150.965 MHz remains useable for AAA's present operations. This frequency is already congested, particularly during the morning and evening rush hours when traffic accidents commonly occur, and CSAA is called into action. Typically, AAA's tow truck operators use the channel 45-50 minutes out of the hour during rush hour or during extended storm periods. If Merced College is allowed to use the

same frequency, it is foreseeable that important automobile emergency calls may not get through in time, which could threaten the safety of the motorists involved, and contribute to substantial traffic delays.

II. *The use of a duplex system on these frequencies increases the risk of interference*

The licensing of a frequency pair (150.965 MHz and 159.510 MHz) to support Merced College's duplex mode of operation exacerbates this interference problem. It is foreseeable that Merced College will fail to adequately monitor the transmitting frequency (150.965 MHz) for communications in progress, as required by Section 90.403(e) of the Commission's rules, and thus prevent CSAA from using this channel for its simplex operations. CSAA, like most auto clubs, has invested in a simplex system because the frequencies assigned to Automobile Emergency Radio Service (AERS) were originally allocated on an unpaired basis. The Commission has recognized that the licensing of channel pairs for duplex operations on frequencies that also support simplex operations requires special consideration, and has stated that "it may be necessary for licensees of two-frequency duplex systems to install additional equipment to ensure compliance with the requirement to monitor a base station frequency prior to transmitting." Amendment of Part 90 of the Commission's Rules to Permit Business Radio Use of Certain Channels in the 150 MHz Band, *Memorandum Opinion and Order on Reconsideration*, PR Docket No. 88-373, 5 FCC Rcd 4784, note 51 (1990). In the absence of the installation of special equipment, Merced College's duplex

operations will likely be configured such that it monitors only the paired mobile frequency (159.510 MHz) for traffic, and therefore will not detect auto club communications prior to broadcasting on 150.965 MHz. To ensure that there is sufficient air time available to CSAA, and to ensure compliance with Section 90.403(e), the Commission should grant Merced College a license on a more suitable frequency.

III. *The proposed license is inconsistent with Congress' recognition of the importance of auto emergency services*

The licensing of Merced College on the frequency 150.965 MHz is inconsistent with Congress' recognition of AAA and its auto clubs as quasi-public safety entities. In the Conference Report accompanying the Balanced Budget Act of 1997, Congress explicitly recognized the important public safety role played by AAA auto clubs, noting that "the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public." H.R. Rep. No. 105-217, at 572 (1997). To ensure that auto clubs can continue to provide emergency road services to the public, Congress expressly exempted from the FCC's auction authority all licenses issued "for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations." Budget Act, Sec. 3002(a)(2)(A). Congress explained in the conference report that "[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services,

such as the American Automobile Association. The Senate included this particular exemption in recognition of the valuable public safety service provided by emergency road services." H.R. Rep. No. 105-217, at 572 (1997). This language, which demonstrates Congress' intent to promote the types of public safety services offered by CSAA, supports our recommendation that Merced College be granted a license on another frequency.

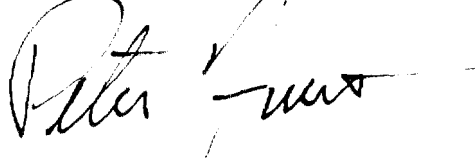
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In its Public Notice dated October 15, 1997 (DA 97-2208) (Attachment A), the Commission acknowledged that the Balanced Budget Act, specifically Section 3002 (containing Congress' determination that the emergency road services constitute public safety services), may affect proceedings outside of the auction context. CSAA is exactly the kind of non-commercial organization Congress intended to protect. The Commission should therefore follow Congress' intent and protect CSAA, and the public, from the harm that would result if incompatible users are allowed to operate on the frequency 150.965 MHz. The July 29, 1998 grant to Merced College should be rescinded, and the application returned to pending status for grant on another frequency.

For the above reasons, we ask that the Commission reconsider its decision assigning Merced College the frequency 150.965 MHz, and return the referenced application to pending status for grant on a different frequency pair.

Respectfully submitted,

California State Automobile Association

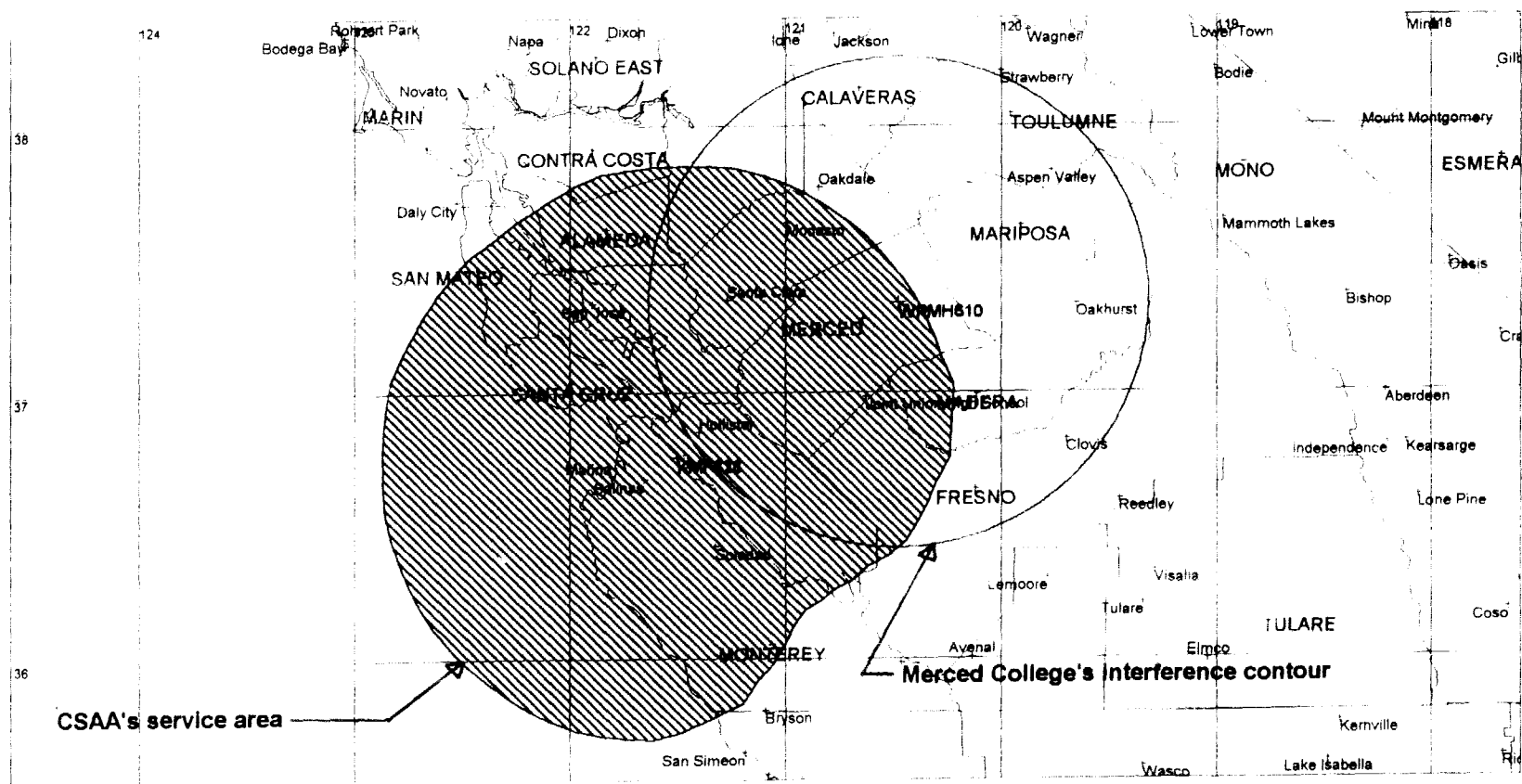
A handwritten signature in black ink, appearing to read "Peter Fuerst", with a stylized flourish at the end.

Peter Fuerst
Supervisor
ERS Communications

Attachment

cc: David Brauch
Marvin W. Smith

ATTACHMENT A



Blooston, Mordkofsky, Jackson and Dickens

Scale 1:2900000

**LM Service
Lat-Lon Grids**

LM City Grade

County Borders

**25 Mi
State Borders**